

Statement of Senator Judd Gregg on the Introduction of the Family Time and Workplace Flexibility Act

February 5, 2003

Mr. President, I rise today to introduce legislation that, if enacted, could have a monumental impact on the lives of thousands of working men, women and families in America. Today, along with Senators Enzi, and Sessions, I am pleased to reintroduce the Family Time and Workplace Flexibility Act. The primary purpose of this legislation is to give families and employers greater flexibility in meeting and balancing the demands of work and family.

The demand for family time is evident. Let me give you some of the latest statistics. 70 percent of employees don't think there is a healthy balance between work and personal life. 70 percent of employees today say that family is their most important priority. This compares to 54 percent in 2000. 46 percent of employees either feel overworked, overwhelmed by the quantity of their work, or lack the time to step back and reflect on their work. 61 percent of adults say they would give up some of their pay for more time with their family. Employees say that finding time for family is a more pressing concern than layoffs (32 percent vs 22 percent). This compares to 25 percent in 1999.

In light of the cry of America's workers for more family time, and in honor of today's 10-year anniversary of the Family Medical Leave Act, I am introducing the Family Time and Workplace Flexibility Act, which will build upon the spirit of the FMLA, by updating federal law to allow a more flexible workplace. This legislation is not a total solution: there are many other provisions under the 64-year-old Fair Labor Standards Act that need our attention. But the legislation I am

introducing today is an important part of the solution. It gives working families a choice.

The Family Time and Workplace Flexibility Act in a nutshell consists of three main provisions. The first allows employees the option of taking time off in lieu of overtime pay. The second gives employees the option of “flexing” their schedules over a two week period. In other words, employees would have 10 “flexible” hours that they could work in one week in order to take 10 hours off in the next week. The third provision gives employees the option of a “flexible credit hour program,” under which the employer and employee can agree to allow the employee to work excess hours in his schedule in order to accrue hours to be taken off at a later time. The flexible credit hour option is for employees who do not get the opportunity to work overtime, but still want a way to build up hours to take off later.

Flexible work arrangements have been available in the Federal government since 1978. For over three decades, federal workers have had this special privilege. The federal program was so successful in fact, that in 1994 President Clinton issued an Executive Order extending it to parts of the Federal government that had not yet had the benefits of the program. The President stated that: “Broad use of flexible arrangements to enable Federal employees to better balance their work and family responsibilities can increase employee effectiveness and job satisfaction while decreasing turnover rates and absenteeism.” I couldn’t agree more.

While federal employees enjoy the benefits of flexible workplace arrangements, members of the private sector do not have such options. The Family Time and Workplace Flexibility Act corrects this and extends this option to all businesses covered by the Fair Labor Standards Act.

So, who are these workers who are currently covered by the FLSA but do not have the ability to exercise workplace flexibility? They are some of the hardest working Americans. Sixty percent of these workers have only a high school education. Eighty percent of them make less than \$28,000. A great percentage of them are single mothers with children. They are working hard to meet their family's economic needs as well as their emotional needs. And while government can't mandate love and nurture, it can get out of the way and eliminate barriers to opportunities for love and nurture. That is what the Family Time and Workplace Flexibility Act does.

Mr. President, in the subsequent weeks and months we will undoubtedly hear from some that what working families really need is more money. They need their overtime pay. Mr. President, that may well be true for some families, and this bill does not affect them in any way. But for other families, for families who want to choose to take time off with pay to attend a child's school play or PTA meeting, the issue is time, not money. The point is this – the family should have the right to choose. Washington should not decide for them which priority is important for their family.

I am one who believes in the working men and women of America and in

their ability to know what is best for their families. It is time for Congress to give families what they want, and not what Congress thinks they need. It's time to give working families what Federal employees have already-- workplace flexibility.

I ask unanimous consent that a copy of the legislation and a bill summary appear in the Record following my remarks.

Legislative Summary

The Family Time and Workplace Flexibility Act

Section 2, Comp Time

- Gives employers and employees (who have been employed for at least 12 months by the employer, and for at least 1,250 hours of service with the employer during the previous 12-month period) the option of comp time in lieu of monetary overtime compensation, at the rate of 1-and ½ hours of comp time for each hour of overtime worked.
- Where a collective bargaining agreement is in place, an employer would have to work within that context in shaping any comp time program.
- Where there is no collective bargaining agreement in place, the employer and the individual employee would be allowed to enter into a “written agreement” with respect to comp time. Such an agreement must be completely voluntary and must be arrived at before the performance of the work.
- The employer is prohibited from directly or indirectly intimidating, threatening,

coercing or attempting to intimidate, threaten or coerce any employee into agreeing to the comp time option nor may acceptance of comp time be a condition of employment or of working overtime.

- Employees may not accrue more than 160 hours of comp time. If unused, such hours must be cashed out at the end of the preceding calendar year or not later than 31 days after the end of an alternative 12-month period designated by the employer. An employer may, upon 30 days written notice to the employee, cash-out all hours banked in excess of 80. Employees who terminate their employment either voluntarily or involuntarily must be paid for any unused comp time.
- An employee may withdraw an agreement at any time by submitting a written notice of withdrawal to the employer and an employer must, within 30 days after receiving the written request, provide the employee the monetary compensation due.
- An employer may discontinue offering comp time after providing 30 days' notice.
- Comp time may be used upon request by a worker within a reasonable period after making the request if it does not unduly disrupt the operations of the employer.

Section 3, Bi-Weekly Work and Flexible Credit Hour Programs

- Gives employers and employees the option of a 2-week 80 hour work period during which, without incurring an overtime penalty, up to 10 hours could be “flexed” between the two week period. Employees could, if agreed upon by their

employers, choose to work 2 weeks of 40 hours each, 50 hours in one week and 30 in another, etc. Employers would not be required to pay overtime rates (time-and-a-half) until 80 hours had been worked in 2 calendar weeks. For hours worked in excess of 80 in a 2 week period, a worker would have to be compensated either in cash or in paid comp time (if the employer has agreed to a comp time option) - each at not less than a time-and-a-half- basis.

- Gives employers and employees the option of a “flexible credit hour program,” under which the employer and employee can agree to allow the employee to work excess hours in his schedule in order to accrue hours to be taken off at a later time. The employee would receive one hour of time off for every excess hour worked.
- The flexible credit hour option is for employees who do not get the opportunity to work overtime, but still want a way to build up hours to take off later.
- Employees may accrue up to 50 flexible credit hours.
- Like comp time, these programs are completely voluntary and may not affect collective bargaining agreements that are in force.
- Discontinuance rules for these programs are similar to rules for comp time.

Section 4, Protections in Cases of Bankruptcy

- Amends the Federal bankruptcy code to grant third priority (allowed unsecured claims for wages, salaries, or commissions) in bankruptcy proceedings to claims relating to compensatory time off.

Section 5, Congressional Coverage

- Congressional employees would have access to comp time, biweekly work programs, and flexible credit hours.

Section 6, Termination

- The provisions sunset after 5 years.